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6 **UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

7 **In re:**

8 **MARK S. COLON and VERONICA I. COLON,**

9 **Debtors.**

No.:

BK No.: 13-15193

**ADVERSARY COMPLAINT TO
DETERMINE NON-
DISCHARGEABILITY OF DEBT**

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12 **MICHAEL LIFTON, Individually and as Trustee
13 of the 8617 NE 20th Trust; MEI-YUH HWANG,
A Single Individual,**

14 **Plaintiffs,**

15 **vs.**

16 **MARK S. COLON, a Washington Resident,
17 Defendant.**

18 COME NOW ADVERSARY PLAINTIFFS above named and alleges as follows:

19 **I. Parties**

20 1.1 Adversary Plaintiff MICHAEL LIFTON, is now and for all times relevant hereto
21 has been a Washington resident.

22 1.2 Adversary Plaintiff MEI-YUH HWANT, is now and for all times relevant hereto
23 has been a Washington resident.
24
25

MDK LAW ASSOCIATES:
THE LAW OFFICES OF MARK DOUGLAS KIMBALL P.S.
777 108th Ave NE, Suite 2170
Bellevue, Washington 98004
(425)-455-9610

1 1.3 Adversary Defendant MARK S. COLON, is now and for all times relevant hereto
2 has been a Washington resident.

3 II. Jurisdiction and Venue

4 2.1 The Bankruptcy Court has jurisdiction over this adversary proceeding pursuant to
5 28 U.S.C. §§ 1334 and 157. This adversary proceeding is a core proceeding pursuant to 28
6 U.S.C. § 157(b)(2)(I)

7 2.2 Venue for this adversary proceeding exists in the United States Bankruptcy Court
8 for the Western District of Washington pursuant to 28 U.S.C. §§ 1408 and 1409.

9 III. Basis of Complaint

10 3.1 On March 5, 2013 Adversary Plaintiffs obtained a judgment against Mark
11 Stephen Colon in the amount of \$172,931.02. A true and correct copy of the Judgment is
12 attached hereto as "Attachment 1".

13 3.2 Of the judgment amount, the Court found that no issues of material fact existed
14 that Adversary Defendant Colon converted \$166,199.78.
15

16 IV. Causes of Action

17 4.1 All of the foregoing allegations are re-alleged herein and incorporated into each of
18 the claims set forth below as though set forth therein.

19 Determination of Non-Dischargeability of Debt Pursuant to 11 U.S.C. § 523(a)(4)

20 4.2 As a result of the Debtor's actions, MDK was actually and proximately damaged.
21 Adversary Plaintiffs seeks a determination that the debts owed to him are non-dischargeable as to
22 the Debtor under 11 U.S.C. § 523(a)(4).
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V. Prayer for Relief

WHEREFORE, Adversary Plaintiffs respectfully prays for judgment against the Debtor,
as follows:

5.1 Judgment against Debtor to the effect that the debt owed to Plaintiffs is non-dischargeable as to Debtor under 11 U.S.C. § 523(a)(442).

5.2 For Plaintiffs' attorneys' fees and costs incurred in pursuing its claims against Debtor.

Respectfully submitted this July 9, 2013.

MDK Law Associates:
Law Offices of Mark Douglas Kimball, P.S.
Attorney for Adversary Plaintiffs


MARK D. KIMBALL, WSBA # 13146

JAMES P. WARE, WSBA # 36799

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ATTACHMENT 1

FILED

KING COUNTY, WASHINGTON
Honorable Judge Prochnau
February 26, 2013
Without Oral Argument

MAR 05 2013

SUPERIOR COURT CLERK
EILEEN L. MCLEOD
DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

**MARK STEPHEN COLON d/b/a
LUXOR HOMES, A Washington State
Licensed Contractor,**

Plaintiff,

vs.

**MICHAEL LIFTON, Individually and as
Trustee of the 8617 NE 20th Trust; MEI-
YUH HWANG, A Single Individual;**

Defendants/ Third-Party Plaintiffs.

vs.

**AMERICAN CONTRACTORS
INDEMNITY CO., A Duly Licensed and
Registered Contractor Bonding Co.;
PLATTE RIVER INSURANCE CO., A
Duly Licensed and Registered Contractor
Bonding Co.,**

Third-Party Defendants.

No.: 11-2-03582-4 SEA

**AMENDED JUDGMENT AGAINST
PLAINTIFF/COUNTERCLAIMANT FOR
CONVERSION**

(Clerk's Action Required)

JUDGMENT SUMMARY

- | | |
|---------------------------------|--|
| 1. Judgment Creditor: | MICHAEL LIFTON and MEI-YUH HWANG |
| 2. Judgment Creditor's Counsel: | James P. Ware
MDK Law Associates
777 108 th Ave. NE Suite 2170
Bellevue WA 98004
(425) 455-9610 |

SECOND AMENDED JUDGMENT
FOR CONVERSION - 1 -
Colon v. Lifton

 **ORIGINAL**


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- 1 3. Because no issues of material fact exist that Mark Stephen Colon converted
2 \$116,199.78 from Counterclaims Michael Lifton and Mei-Yuh Hwang, Judgment
3 should be entered against Mark Stephen Colon in the amount of \$166,199.78 for
4 conversion;
5 4. Pursuant to the April 21, 2011 Order and Judgment this Court entered,
6 Counterclaimants Michael Lifton and Mei-Yuh Hwang are entitled to attorney fees in
7 the amount of \$6,731.24 plus accrued interest as of April 21, 2011.
8 5. If any Findings of Fact are labeled as Conclusions of Law, they shall be construed as
9 Findings of Fact.
10 6. If any Conclusions of Law are labeled as Findings of Fact, they shall be construed as
11 Conclusions of Law.
12 7. At the request of Counterclaim Plaintiffs Michael Lifton and Mei-Yuh Hwang, all
13 remaining counterclaims and third-party claims not resolved in this Judgment or any of
14 the previous Orders are hereby dismissed without prejudice pursuant to CR 41.

15
16 DONE IN OPEN COURT this ¹~~26~~^{MAR 01} day of ~~February~~, 2013.

17
18 
19 HONORABLE JUDGE PROCHNAU

20 Presented By:
21 MDK Law Associates:
22 Mark Douglas Kimball P.S.
23 *Attorneys for Defendants/Counterclaimants, and Third-Party Plaintiffs*

24 
25 JAMES P. WARE WSBA # 36799
(425) 455-9610

SECOND AMENDED JUDGMENT
FOR CONVERSION - 3 -
Colon v. Lifton

MDK LAW ASSOCIATES:
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ATTACHMENT A

Honorable Judge Prochnau
April 20, 2011
Without Oral Argument
FILED
KING COUNTY, WASHINGTON

APR 21 2011

SUPERIOR COURT CLERK
EILEEN L. MCLEOD
DEPUTY

IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

MARK STEPHEN COLON d/b/a
LUXOR HOMES, A Washington State
Licensed Contractor,

Plaintiff,

vs.

MICHAEL LIFTON, Individually and as
Trustee of the 8617 NE 20th Trust; MEI-
YUH HWANG, A Single Individual;

Defendants.

No.: 11-2-03582-4 SEA

ORDER AND JUDGMENT GRANTING
ATTORNEY FEES

(Clerk's Action Required)

SUMMARY JUDGMENT

- | | |
|--|--|
| 1. Judgment Creditor: | MICHAEL LIFTON and MEI-YUH HWANG |
| 2. Judgment Creditor's Counsel: | James P. Ware
MDK Law Associates
10900 NE 4 th St Suite 2030
Bellevue WA 98004
(425) 455-9610 |
| 3. Judgment Debtor: | MARK STEPHEN COLON |
| 4. Judgment Debtor's Counsel: | LESLIE CLAY TERRY, III
10500 NE 8th St Ste 1900
Bellevue, WA 98004 |
| 5. Judgment Amount: | \$N/A |
| 6. Attorneys Fees and costs: | \$6,731.24 |
| 7. Judgment Total which shall:
bear interest of 12% per annum | \$6,731.24 |

ORDER/JUDGMENT RE: FEES

- 1 -

ORIGINAL

MDK LAW ASSOCIATES:
THE LAW OFFICES OF MARK DOUGLAS KIMBALL, P.S.
Skyline Tower, Suite 2300
10900 Northeast Fourth Street
Bellevue, Washington 98004
(425)-455-9610

1 THIS MATTER having come on regularly for presentation upon request of Plaintiff, by
2 and through the undersigned Attorneys, pursuant to the Findings of Fact And Conclusions of
3 Law entered herewith, the Court now enters Judgment against the Plaintiff named herein as
4 follows:

5 **I. FINDINGS OF FACT**

- 6
- 7 1. On March 25, 2011 this Court found that the Claim of Lien recorded under King County
8 Recording No. 20110210000831 against the property at 8617 NE 20th, Clyde Hill,
9 Washington, further described as:
10 LOT 8 CLYDE HILL SHORT PLAT NO. 44-102 RECORDED UNDER RECORDING
11 NO. 20051025900012, RECORDS OF KING COUNTY, WA.
12 was Frivolous.
- 13 2. Pursuant to RCW § 60.04.081 this Court awarded Defendants reasonable attorney fees
14 and costs.
- 15 3. On April 4, 2011, Defendants' Counsel provided Plaintiff's Counsel a copy of their
16 declaration in support of attorney fees and costs in order that the parties stipulate to an
17 amount. Plaintiff did not respond.
- 18 4. The amount of fees and costs Defendants allege are reasonable are \$6731.24


19 **II. CONCLUSIONS OF LAW**

- 20 1. Under the *Lodestar* standard Defendants are entitled to attorney fees equal to
21 reasonable hourly charges based upon counsel's experience and knowledge multiplied
22 by a reasonable rate of time to handle the issue that was before the court given its
23 factual complexity;
- 24 2. Pursuant to the *Lodestar* standard Defendants are entitled to \$6,731.24 in fees and costs
25 as said amount is reasonable for this matter.

2/5+
1 DONE IN OPEN COURT this 2nd day of April 2011.

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HONORABLE JUDGE PROCHNAU

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6 Presented By:
7 MDK Law Associates:
8 Mark Douglas Kimball P.S.
9 *Attorneys for Defendants*

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JAMES P. WARE WSBA # 36799
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ORDER/JUDGMENT RE: FEES

- 3 -

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